

## **§ 891.160**

4851–4856), and implementing regulations at part 35, subparts A, B, H, and R of this title apply to these programs.

[61 FR 11956, Mar. 22, 1996, as amended at 64 FR 50227, Sept. 15, 1999]

### **§ 891.160 Audit requirements.**

Nonprofits receiving assistance under this part are subject to the audit requirements in 24 CFR part 45.

### **§ 891.165 Duration of capital advance.**

The duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

### **§ 891.170 Repayment of capital advance.**

(a) *Interest prohibition and repayment.* A capital advance provided under this part shall bear no interest and its repayment shall not be required so long as the housing project remains available for very low-income elderly families or persons with disabilities, as applicable, in accordance with this part. The capital advance may not be repaid to extinguish the requirements of this part. To ensure its interest in the capital advance, HUD shall require a note and mortgage, use agreement, capital advance agreement and regulatory agreement from the Owner in a form to be prescribed by HUD.

(b) The transfer of physical and financial assets of any project under this part is prohibited, unless HUD gives prior written approval. Approval for transfer will not be granted unless HUD determines that the transfer to a private nonprofit corporation or consumer cooperative (under the Section 202 Program) or a nonprofit organization (under the Section 811 Program) is part of a transaction that will ensure the continued operation of the project for not less than 40 years (from the date of original closing) in a manner that will provide rental housing for very low-income elderly persons or persons with disabilities, as applicable, on terms at least as advantageous to existing and future tenants as the terms required by the original capital advance.

## **24 CFR Ch. VIII (4–1–03 Edition)**

### **§ 891.175 Technical assistance.**

For purposes of the Section 202 Program and the Section 811 Program, the Secretary shall make available appropriate technical assistance to assure that applicants having limited resources, particularly minority applicants, are able to participate more fully in the programs.

### **§ 891.180 Physical condition standards; physical inspection requirements.**

Housing assisted under this part must be maintained and inspected in accordance with the requirements in 24 CFR part 5, subpart G.

[63 FR 46580, Sept. 1, 1998]

### **§ 891.185 Preemption of rent control laws.**

The Department finds that it is necessary and desirable to assist project owners to preserve the continued viability of each project assisted under this part (except subpart E) as a housing resource for very low-income elderly persons or persons with disabilities. The Department also finds that it is necessary to protect the substantial economic interest of the Federal Government in those projects. Therefore, the Department concludes that it is in the national interest to preempt, and it does hereby preempt, the entire field of rent regulation by local rent control boards or other authority acting pursuant to state or local law as it affects those projects. Part 246 of this title applies to projects covered by subpart E of this part.

[63 FR 64803, Nov. 23, 1998]

## **Subpart B—Section 202 Supportive Housing for the Elderly**

### **§ 891.200 Applicability.**

The requirements set forth in this subpart B apply to the Section 202 Program of Supportive Housing for the Elderly only, and to applicants, Sponsors, and Owners under that program.

### **§ 891.205 Definitions.**

As used in this part in reference to the Section 202 Program, and in addition to the applicable definitions in § 891.105: